

## **Understanding Timber Theft - Capt. Gary Bobseine**

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The incidence of reported timber thefts is on the increase in New York State. Rising timber prices and the high value of individual species such as black cherry and red oak have given new incentive for thieves to steal timber. Individual trees of these species can have values of one thousand dollars or more. Small stands of these valuable species can be worth hundreds of thousands of dollars.

### **Prevention:**

The best way to deal with timber theft is to prevent it from happening in the first place. Landowners should be intimately familiar with their property and its boundaries. If the owner is absentee, he should enlist the aid of neighbors to the property, sports persons, local police and others to help monitor activity on the property. Owners should be aware of logging operations on neighboring properties and inspect their boundaries often to guard against line encroachment. If you make a timber sale on your property, you or your consulting forester should monitor the logging operation on a regular basis. The fact that someone with an interest in the job is watching makes the operators much more likely to adhere to the contract and minimize damage to surrounding trees. Remember, just a few trees can pay the tuition at a SUNY college for a semester!

Property boundaries should be well marked with blazes and paint. If you are not sure where your boundaries are, find out. Neighboring landowners may be able to help. If boundary lines are unclear, a survey by a licensed surveyor may be in order. Many of the incidents investigated by the DEC Police could have been averted by the maintenance of well-marked boundaries.

### **Investigation:**

Some of the complaints we investigate are not criminal but rather civil matters. Vague contract language that fails to specify what land can be logged and what trees can be legally removed by the logger often results in misunderstanding and conflict between the buyer and seller. A well written contract, especially one which specifies each and every tree which is part of the sale can prevent misunderstanding and protect the landowner. Landowners should ask for references and get names of owners of properties which were recently logged by the subject company. There are enough good timber buyers and harvesters out there so that there is no excuse for doing business with one which is questionable. Most people would be well served to seek the services of a professional forester to plan and manage a timber sale. Unless the landowner is well versed in timber management and the nuances of negotiating a contract, the fee for these services could well pay for itself and more.

While some complaints don't rise to the level of criminal conduct, there are many that do. Felony level grand larceny only requires theft of property valued at \$1000 or more. As we have seen previously, it doesn't take many trees to reach that threshold. Of the many complaints that the DEC Division of Law Enforcement has investigated, they generally fall into the following general categories:

**Intentional theft:** In these types of cases, the thief had no right to be on the property in question, and unlawfully entered the property and cut and removed logs/trees. These range from the cutting of a few trees (such as white ash or red oak) which are cut into bolts which can be loaded onto a pickup truck by hand, to full scale operations involving skidders and log trucks and the removal of thousands of board feet of timber. If the culprits can be identified, this is the type of case which can be most successfully prosecuted as a criminal matter. In the event of a successful criminal prosecution, the court can order restitution to be made to the owner by the defendant.

Another classification involves the logger removing trees not included in the sale. In the case of a well written contract, each tree should be marked and recorded. Sometimes the temptation is too great and trees (usually the more valuable species) which are not included in the sale are taken, in hopes that no one will notice. This type of case can also be successfully prosecuted, but only if a specific, well written contract has been established.

A third type of theft involves a logger straying from one property, where he is legally authorized to remove timber, onto a neighboring property where he removes timber belonging to another. Sometimes only a few trees near the line are involved. We have also seen occasions where several acres of timber from a neighboring property has been cut. This type is a common occurrence and could usually be prevented by well-marked boundary lines. Successful criminal prosecution in these instances becomes more problematic. The law requires intent on the part of the potential thief before a criminal larceny charge can be filed. With the existence of a well-defined boundary, fence, or other distinguishing characteristic indicating where the property line is, intent can be more easily proven, thus, chances of successful prosecution increases.

In all of the above scenarios, the value of the timber removed is not the only loss suffered by the landowner. The thieves are often reckless and slipshod in their hasty attempts to steal timber, and can damage as many or more trees than they remove. They often leave trees "hanging" and damage standing timber during the skidding operation. Rutted skid trails will need repair and adds insult to injury when the owner has to pay for these repairs out-of-pocket. In addition to all this, a carefully planned timber management program can be nullified almost overnight.

DEC's Environmental Conservation Police are well equipped to investigate instances of timber theft. Many of our officers and investigators have experience and background in forestry. DEC foresters and forest rangers are a valuable asset and aid us in the technical aspects of these investigations. A typical investigation might involve an assessment of the site, photography and measurement of tree stumps, and a calculation of board footage and value of the timber removed. Interviews of any witnesses and landowners are conducted. Sometimes, criminal search warrants are executed at log yards seeking butt logs to compare to stumps in the woods. These warrants may also seek to seize business records which may identify quantities and value of stolen timber. The District Attorney in the county where the theft occurred is an important part of the process. In some cases the New York State Attorney General's office prosecutes these cases.

**SUMMARY:** Landowners can do many things to avoid becoming victims of timber theft. Timber resources are a valuable asset which can pay for college tuition or provide for retirement income. Becoming familiar with your property and its timber potential, and having a management plan which includes boundary line maintenance are important steps in preventing a theft. People who intentionally steal property, including your trees, are criminals and should be prosecuted. The Environmental Conservation Police are experienced and capable at investigating instances of the theft of one of New York's most important natural resources, its forests.